

REMARKS

Reconsideration of this application, as amended, is respectfully requested. Claim 1 (and similarly in claims 2 and 35) has been amended to recite "the reward threshold comprises a minimum level of reward such that only advertisements with a reward above the minimum level of reward are received." These amendments are supported by paragraphs [0035]-[0043], [0096], and claim 14 as originally filed. Accordingly, no new matter is added. Claims 14 and 30 have been cancelled. Claims 15-17 have been amended to depend from claim 2, and claim 20 has been amended to depend from claim 1. In addition, claims 1-4, 17-23, 27-29, 31-35, and 37 have been amended to correct minor typographical errors.

Claims 1-12, 15-29, 31-38, and 40-43 are patentable over Goldhaber et al., US 5794210 (hereinafter, "Goldhaber").

On page 5, the Final Office Action dated November 01, 2007 (hereinafter, "Final Office Action") admits that Goldhaber does not disclose a method which includes user-established settings for a reward threshold, as recited in claims 1, 2, and 35, and yet, attempts to cure this deficiency by relying on Official Notice of certain allegedly common practices in "the industry". The reliance on the Official Notice is improper according to MPEP 2144.03(A), which states:

Official Notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. As noted by the court in *In re Ahlert*, 424 F.2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970), the notice of facts beyond the record which may be taken by the examiner must be "capable of such instant and unquestionable demonstration as to defy dispute" (citing *In re Knapp Monarch Co.*, 296 F.2d 230, 132 USPQ 6 (CCPA 1961)). (Emphasis added)

On page 6, the Final Office Action states, "Furthermore, the materials discussed therein [the Official Notice] are indeed daily examples." The Final Office Action provides the example that "a professional football player will indicate, through his agent, to an interest[ed] party who wants him to endorse his products/services the amount of money he wants to receive to perform such a duty" to support the assertion that "it is common practice in the industry for a user (a professional, a contractor, a celebrity, a star or an individual) to specify the amount of money he

wants to receive in order to perform a duty or task ..." (Final Office Action, page 6) While it may be common for a football player's agent to negotiate the amount of compensation the football player receives for endorsing a product/service, the same negotiation leverage is not typically associated and/or offered to an individual who reviews an advertisement. It is not well-known, and is rather surprising, for a consumer to have the ability to negotiate a price to review an advertisement.

Thus, while the Final Office Action may indeed cite "daily examples", these examples do not carry over to the problem solved by the instant application. Hence, there exists a gap in reasoning between the "daily examples" of the Official Notice and the asserted conclusion that "it is common practice in the art for a user to agree to perform a duty, such as reading or reviewing an ad, for a specific amount of money that he himself sets or establishes before he actually performs the task." (Final Office Action, page 6) This assertion is far from "common knowledge in the art ... capable of instant and unquestionable demonstration as being well-known", and hence, according to MPEP 2144.03(A), the Official Notice, if unsupported by documentary evidence, is improper.

The Final Office Action subsequently appears to rely on Hanson et al., US 5974398 (hereinafter, "Hanson") to support its Official Notice. As will be demonstrated shortly, Hanson offers no support for the assertions made in the Official Notice. On page 2, the Final Office Action alleges Hanson teaches, "that a user himself selects the price or the amount of money, from a plurality of displayed amounts, that he wants to receive to read an associated ad." The Final Office Action appears to state that Hanson teaches that a user is offered, for each advertisement, a plurality of reward amounts to select from. This statement is simply not taught by Hanson, as figure 4 of Hanson depicts each advertisement associated with only a single, non-negotiable bid. Hanson teaches that the bids are set by the advertisers, (e.g., "bids [are] from advertisers", Hanson, 7:55) and simply does not teach that the bids are "set or established" by the reviewers, as alleged by the Official Notice. Hence, Hanson offers no support for the assertions made in the Official Notice. As the Official Notice is unsupported by documentary evidence and relies on facts not capable of instant and unquestionable demonstration as being well-known, it is improper to reject the current claims over Goldhaber in light of the Official Notice. Hence, the current claims, as well as their dependent claims, are patentable over Goldhaber.

Claims 1-12, 15-29, 31-38, and 40-43 are patentable over Goldhaber, even if Goldhaber is considered in view of Hanson.

As previously mentioned, the Final Office Action admits that Goldhaber does not disclose a method which includes user-established settings for a reward threshold, as recited in claims 1, 2, and 35. It follows that Goldhaber does not teach a user-established reward threshold “compris[ing] a minimum level of reward such that only advertisements with a reward above the minimum level of reward are received”, as further recited in claim 1, and similarly in claims 2 and 35. Hansen may teach that the top four bids are displayed (Hanson, 7:55), but fails to cure the deficiencies of Goldhaber, as Hanson does not teach a user-established minimum reward level. Following the teachings of Hanson would result in the display of a constant number of bids for each bidding session over time, namely four. In contrast, following the teachings of the present invention may result in no bids (i.e., all advertisements have a reward below the minimum reward level) or a variable number of bids per bidding session over time (e.g., if the merchants change their reward amounts over time, the number of advertisements with a reward above the minimum reward level may change). As Hanson does not teach a user-established minimum reward level, claims 1, 2, 35 are patentable over Hanson. Hence, claims 1, 2, 35, and their dependent claims are patentable over Goldhaber and Hanson whether considered separately or in combination with one another.

For at least the foregoing reasons, the claims are patentable over the references cited in the Final Office Action. If there are any additional fees due in connection with this communication, please charge our deposit account 19-3140.

Respectfully submitted,
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Dated: May 30, 2008

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